



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

February 14, 1991

The Honorable Edward J. Markey
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Markey:

I am responding to your letter of January 15, 1991, in which you expressed support for a Petition for Rulemaking and a Request for Emergency Action submitted on behalf of the Nuclear Control Institute and the Committee to Bridge the Gap to modify the current design basis threat for radiological sabotage and to implement vehicle bomb contingency plans. The Nuclear Regulatory Commission (NRC) evaluated the petitioners' requests and decided to handle the Petition for Rulemaking and the Request for Emergency Action separately.

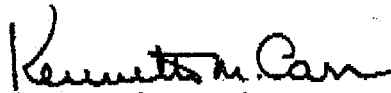
The Petition for Rulemaking will receive full review by the NRC as soon as possible. As part of the review, the NRC has published a notice of receipt of the Petition in the Federal Register to solicit public comment. By letter dated January 23, 1991 (copy enclosed), the NRC staff advised the petitioners' attorney that the Petition has been docketed pursuant to 10 CFR 2.802 and provided a copy of the Federal Register notice. Your comments, as well as those received from other interested persons, will be included in staff and Commission deliberations on the Petition. Upon completion of Commission action, you will be notified of the result.

The Request for Emergency Action to require immediate implementation of licensee contingency plans for a vehicle bomb threat was considered under 10 CFR 2.206 and was denied on January 15, 1991. I have enclosed a copy of the Director of NRC's Office of Nuclear Material Safety and Safeguards' letter to the petitioners' attorney informing him that, based on current conditions and Intelligence Community data, the staff has determined that there continues to be no credible threat of terrorist actions against any NRC-licensed facility that warrants NRC requiring licensees to implement additional security measures on an emergency basis.

I want to assure you, however, that the Commission recognizes the potential for increased terrorist activity in the United States as a result of the current conflict in the Persian Gulf. On January 9, 1991, we alerted all licensees to the

need for increased vigilance by on-site security personnel in light of hostilities in the Middle East. Moreover, as you are aware, in 1989 the Commission issued a Generic Letter to all power reactor licensees calling on those licensees to develop contingency plans to deal with a truck bomb threat. The NRC staff, in consultation with the Intelligence Community, is continuously monitoring and assessing the current threat environment and is prepared to require licensees to upgrade on-site security, including implementation of contingency plans for dealing with truck bombs, if the situation warrants.

Sincerely,


Kenneth M. Carr

Enclosures:

1. Ltr dtd 1/23/91 from
DGrimsley to EGreenberg
2. Ltr dtd 1/15/91 from
RBernero to EGreenberg



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20535

JAN 23 1991

Eldon V.C. Greenberg
Galloway & Greenberg
1835 K Street, N.W.
Suite 801
Washington, D.C. 20006

Dear Mr. Greenberg:

This is in regard to the petition for rulemaking (PRM-73-9) you filed with the Commission on behalf of the Nuclear Control Institute and the Committee to Bridge the Gap. In the petition, you requested the Commission to revise its regulations to upgrade the design basis threat for radiological sabotage of nuclear reactors.

The Commission has evaluated your request for expedited action. The Commission has determined that the petition should be processed as quickly as possible but in compliance with the procedures for processing a petition for rulemaking in §2.802 (e). Consequently, we have shortened the comment period from the standard practice of 60 days to 30 days. We believe this will still provide adequate opportunity for public comment while being responsive to your petition.

Your petition has been docketed pursuant to 10 CFR 2.802 to recognize your request for amendment of the Commission's regulations. The petition has been assigned the Docket Number PRM-73-9. The enclosed notice acknowledging receipt of the petition and request for public comment will be published in the Federal Register.

As staff review progresses on your petition, it may be necessary to request additional information. Please reference the assigned docket number on any correspondence you may have concerning the petition. Upon expiration of the comment period, we shall provide you with copies of any comments that have been received in response to the notice of receipt to your petition for rulemaking.

Sincerely,

A handwritten signature in cursive script, reading "Donnie H. Grimsley", is written above the typed name.

Donnie H. Grimsley, Director
Division of Freedom of Information
and Publications Services
Office of Administration

Enclosure: As stated

ENCLOSURE 1



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

January 15, 1991

Eldon V. C. Greenberg, Esq.
Galloway & Greenberg
1835 K Street, N.W., Suite 801
Washington, DC 20006

Dear Mr. Greenberg:

This letter is to acknowledge receipt of the "Petition for Rulemaking and Request for Emergency Action" ("Petition") which you submitted to both the Secretary and the Executive Director for Operations of the U.S. Nuclear Regulatory Commission ("NRC") on January 11, 1991, on behalf of Nuclear Control Institute and Committee to Bridge the Gap ("Petitioners"). That portion of the Petition requesting emergency action is being considered by the NRC staff as a Petition for emergency action pursuant to 10 CFR Section 2.206 and my Director's Decision is set out below. That portion of the Petition requesting rulemaking to amend 10 CFR §73.1 of the NRC Regulations will be considered as a separate matter.

The Petitioners assert that there is an immediate possibility of terrorist attacks against domestic nuclear facilities which might accompany the outbreak of hostilities in the Middle East. To respond to this concern, Petitioners request the NRC, on an emergency basis, "forthwith to require that existing licensee contingency plans against truck bombs, as developed under Generic Letter No. 89-07, be put into effect at once" and immediately thereafter, the NRC "should undertake an evaluation of the adequacy of the plans and require such improvements therein, on a plant-by-plant basis, as it deems necessary to ensure their adequacy."

In response to recent world events, the NRC is continually reviewing the threat environment associated with commercial nuclear facilities. Based on evaluation of Intelligence Community and other relevant data, we have determined that there continues to be no credible threat of terrorist actions against any NRC-licensed facility that warrants implementation of contingency plans against truck bombs at this time. Nevertheless, the situation resulting from activities in the Middle East continues to be closely monitored so that, if warranted, individual facility, regional or national contingency plans can be implemented.

In summary, I have determined that, while the issues raised in the Petition are cause for ongoing vigilance by the NRC, no immediate action is necessary regarding these matters. I have reached this determination with the benefit of the ongoing NRC activities noted above. As I indicated, your petition for rulemaking will be considered separately.

Sincerely,

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

ENCLOSURE 2

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[Docket No. PRM-73-9]

Nuclear Control Institute and the Committee
to Bridge the Gap; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: The Nuclear Control Institute and the Committee to Bridge the Gap request that the Commission revise its regulations to upgrade the design basis threat for radiological sabotage of nuclear reactors. The petitioners believe that the design basis threat for radiological sabotage must be revised to include explosives-laden surface vehicles such as truck and boat bombs and to reflect the possibility of an attack by a larger number of attackers using more sophisticated weapons.

DATES: Submit comments by (30 days following publication in the Federal Register). Comments received after this date will be considered if it is practical to do so, but consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch. For a copy of the petition, write: Rules Review Section, Regulatory

Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7758 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

Petitioner's Request

On January 11, 1991, the Nuclear Regulatory Commission (NRC) received a petition for rulemaking submitted by the Nuclear Control Institute and the Committee to Bridge the Gap. The petition was docketed as PRM-73-9. The petitioners request that the NRC revise its regulations in 10 CFR 73.1 to upgrade the design basis threat for radiological sabotage of nuclear reactors. The petitioners believe that the regulations must be revised to include explosives-laden surface vehicles, such as trucks and boats, and to reflect the possibility of an attack by a larger number of attackers using more sophisticated weapons.

The petitioners contend that the present design basis threat is not realistic in view of the current trends in terrorism. The petitioners state that a successful terrorist attack could cause the release of radioactivity comparable to a severe nuclear accident and result in significant health and

safety consequences and property damage. The petitioners believe that the increased threats may be countered by measures which can be implemented for a modest cost but would protect against events with potentially catastrophic consequences.

Petitioners' Interest

The Nuclear Control Institute (NCI) is a non-profit corporation established to monitor nuclear programs in the United States and other countries. NCI develops strategies to prevent and reverse the growth of nuclear armaments and to explore strategies for the reduction of existing nuclear arsenals thereby helping to prevent nuclear proliferation and terrorism. The Committee to Bridge the Gap (CBG) is a non-profit corporation engaged in policy advocacy and research. CBG is concerned with nuclear safety and the threat of nuclear terrorism.

Basis for the Requested Amendments

The NRC has established regulations concerning the physical protection of plants and materials in 10 CFR Part 73. These regulations include protective measures related to the radiological sabotage of nuclear facilities. Section 73.1 establishes the design basis threats to be used to design safeguards systems to protect against acts of radiological sabotage and to prevent the theft of formula quantities of special nuclear material.

The petitioners believe that § 73.1 has been interpreted by the Commission so as not to require nuclear reactor licensees to protect against radiological sabotage attempts by a larger number of attackers capable of using weapons of

greater sophistication than hand-held automatic weapons and explosives, thereby excluding an attack by explosives-laden vehicles.

The petitioners believe that terrorist incidents which have occurred since the design basis threat was adopted demonstrate the ability and willingness of terrorists to mount sophisticated attacks capable of causing substantial physical destruction, particularly through the use of vehicle bombs. Because of the ongoing Persian Gulf crisis, the growth of State-sponsored terrorism, and changes in terrorist tactics, the petitioners believe that current regulatory standards, which exclude the vehicle bomb threat and sophisticated large group attacks supported by substantial firepower, do not provide a realistic or sufficient guarantee of public health and safety or common defense and security.

The petitioners state that the terrorist threat has become bloodier, more sophisticated and better armed, and frequently State-supported. As a result, the petitioners believe that the possibility of nuclear terrorism, resulting in a substantial number of casualties, is far more likely today than it was ten years ago.

The petitioners believe that it is essential to upgrade the design basis threat for radiological sabotage to protect against vehicle bomb attacks which pose a grave threat to civilian power plants. The petitioners cite the effects of the vehicle bomb attacks in Beirut in 1983. The petitioners state that studies have indicated the vulnerability of licensed reactors to attack by explosives-laden vehicles and the potentially unacceptable damage from such an attack.

The petitioners believe that it is essential to upgrade the design basis threat to anticipate attacks by more sophisticated, larger, and better-armed

groups. The petitioners state that there are two components to this threat: (1) a larger number of attackers with the capability to act in several coordinated teams; and (2) heavier firepower. The petitioners cite documented large group attacks on nuclear facilities in Latin America and Europe and the widespread availability of advanced weaponry as indications that the current design basis threat is no longer realistic.

Requested Regulatory Action

The petitioners request that the design basis threat for radiological sabotage contained in 10 CFR 73.1(a)(1)(i) be amended to read as set forth below. Note that text to be added is set off by arrows and text to be removed is set off in brackets.

§ 73.1 Purpose and scope.

(a) * * *

"(1) Radiological sabotage. (i) A determined violent external assault, attack by stealth, or deceptive actions of several ➤ up to twenty ◀ persons ➤ operating as two or more teams ◀ with the following attributes, assistance, and equipment: (A) Well-trained (including military training and skills) and dedicated individuals, (B) inside assistance which may include a knowledgeable individual who attempts to participate in a passive role (e.g. provide information), an active role (e.g. facilitate entrance and exit, disable alarms and communications, participate in violent attack), or both, (C) suitable weapons [, up to and including hand-held automatic weapons, equipped with silencers and] having effective long range accuracy, (D) [hand-carried] equipment, including incapacitating agents and explosives

for use as tools of entry or for otherwise destroying reactor, facility, transporter, or container integrity or features of the safeguards system, in quantities transportable by vehicle, and"

* * * * *

The petitioners request that the NRC take other actions necessary to ensure that the specific protective measures contained in 10 CFR Part 73 are sufficient to respond to the increased design basis threat and provide the high assurance required under § 73.55(a) that the threat of radiological sabotage will be effectively countered.

Because the petitioners believe that the suggested amendments are vitally important to reduce grave risks to public health and safety and the common defense and security, the petitioners request that the Commission make a determination on the petition within 30 days from the date of receipt and that it proceed immediately to promulgate a final rule, without issuing a proposed rule, that would adopt the requested amendments.

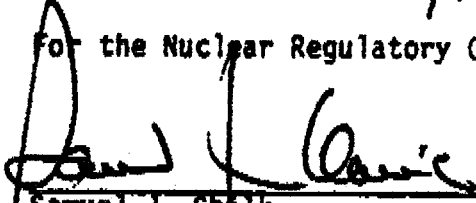
The Commission has evaluated the petitioners' request for expedited action. The Commission has determined that the petition should be processed as quickly as possible but in compliance with the procedures for processing a petition for rulemaking in § 2.802(e). In the event the Commission determines to initiate rulemaking to modify the design basis threat for radiological sabotage, the Commission would also consider the petitioners' suggestion that the amendments be made effective immediately without further opportunity for public comment.

The petitioners also requested that the NRC, on an emergency basis, "require that existing licensee contingency plans against truck bombs, as developed under Generic Letter No. 89-07, be put into effect at once" and

Immediately thereafter, the NRC "should undertake an evaluation of the adequacy of the plans and require such improvements therein, on a plant-by-plant basis, as it deems necessary to ensure their adequacy." That request was denied on January 15, 1991, by Robert M. Bernero, Director, Office of Nuclear Material Safety and Safeguards. The NRC denial noted that the NRC is continually reviewing the threat environment associated with commercial nuclear facilities, and that, based on evaluation of intelligence community and other relevant data, the NRC staff determined that there continues to be no credible threat of terrorist actions against any NRC-licensed facility that warrants implementation of contingency plans against truck bombs at this time. The denial also noted that the situation resulting from activities in the Middle East continues to be closely monitored so that, if warranted, individual facility, regional, or national contingency plans can be implemented.

Dated at Rockville, Maryland, this 23rd day of January, 1991.

For the Nuclear Regulatory Commission.


Samuel J. Chalk,
Secretary of the Commission.